IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 2420 of 2005
Date of decision: November 19, 2007

Tara Chand

.....PETITIONER

VERSUS

Gram Panchayat, Charkhi through Smt Ram Kaur, Sarpanch.

.....RESPONDENT

CORAM: HON'BLE MR JUSTICE T.P.S.MANN

PRESENT: Mr R.S.Sangwan, Advocate
for the petitioner.

Mr Surender Lamba, Advocate
for the respondent.

T.P.S .MANN, J.

The petitioner has challenged order dated 9.11.2004 (Annexure P-1) passed by learned Additional Civil Judge (Sr. Division), Charkhi Dadri by filing the present revision under Article 227 of the Constitution of India. Vide said order, application filed by the petitioner-decree holder for appointment of a Local Commissioner for demarcation of the property was rejected.

In the execution petition, the Court was required to decide as to whether the *Bandh* constructed by the Gram Panchayat was situated on the *Firni* comprised in Khasra No.282 or it was in the property of the decree holder, measuring 51 Kanals 13 Marlas.

The decree holder had filed the application for appointment of Local Commissioner on the ground that the demarcation of the land was

necessary so as to decide the controversy between the parties effectively.

The prayer of the decree holder was opposed by the judgment-debtor on the ground that the evidence of the decree holder had already been closed on 25.8.2004 and he was trying to fill up the lacuna by moving the application.

I have heard learned counsel for the parties and perused the impugned order.

During pendency of the execution petition, issues were framed on 12.2.2003. Three opportunities were availed by the decree holder to lead his evidence. Finally, on 25.8.2004 his evidence was closed as it was the last opportunity.

Though the application for the appointment of the Local Commissioner was filed by the decree holder on the day, his evidence was closed, yet the same was nothing, but an attempt to create evidence in his favour. He wanted to by-pass the order closing his evidence by seeking appointment of Local Commissioner for the demarcation of the property. Moreover, in a suit for injunction, the Local Commissioner cannot give a finding on the question of possession.

It may also be mentioned here that on more than one occasions earlier, Local Commissioners had been appointed and their reports are available on the file.

In view of the above, there is no merit in the present revision, which is, accordingly, dismissed.

November 19 , 2007. **(T.P.S.MANN)**
Pds **JUDGE**